

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

ARTURO MACIAS, JR.,

Plaintiff,

V.

DEPARTMENT OF FAMILY  
SERVICES, a/k/a CPS, a/k/a DFPS,

Defendant.

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1:22-cv-1292-DII

**ORDER**

Before the Court is the report and recommendation of United States Magistrate Judge Susan Hightower concerning Defendant Texas Department of Family and Protective Services’s (“DFPS”)<sup>1</sup> Motion to Dismiss Plaintiff’s Amended Complaint Under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(3) (Dkt. 18). (R. & R., Dkt. 19). Plaintiff Arturo Macias, Jr. timely filed objections to the report and recommendation. (Objs., Dkt. 21).

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because Plaintiff timely objected to the report and recommendation, the Court reviews the report and recommendation *de novo*. Having done so and for the reasons given in the report and recommendation, the Court overrules Plaintiff’s objections and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Susan Hightower, (Dkt. 19), is **ADOPTED**.

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<sup>1</sup> The complaint incorrectly names DFPS as “Department of Family Services.”

**IT IS FURTHER ORDERED** that Defendant Texas Department of Family and Protective Services's ("DFPS") Motion to Dismiss Plaintiff's Amended Complaint Under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(3) (Dkt. 18) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff Arturo Macias, Jr.'s action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

**IT IS FURTHER ORDERED** that DFPS's first motion to dismiss (Dkt. 9), Plaintiff's motions to strike (Dkts. 12, 24, 27), Plaintiff's motion for default judgment (Dkt. 13), Plaintiff's motion to deny electronic filing (Dkt. 14), and Plaintiff's motion for declaratory judgment (Dkt. #17) are **DISMISSED AS MOOT**.

The Court will render final judgment by separate order.

**SIGNED** on May 17, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE